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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: February 02, 2010

+ CM(M) 114/2010

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Anokhey Lal Kardam

Through: Mr. Madan Lal Kalkal, Advocate

02.02.2010

...Petitioner

Versus

Maitrey Budh Vihar Prabandhak Samiti

Through: nemo

...Respondent

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORAL

1. By way of present petition, the petitioner has assailed an order dated 15th January 2010.
2. The brief facts relevant for the purpose of deciding this petition are that the petitioner moved a petition under Article 227 of the Constitution of India before this Court against the order of the trial court dated 27th August 2009 and this Court in that petition passed following order:

"in the aforesaid circumstances, this Court is of the view that the petitioner/defendant should make an application before the trial court listing out its version of the proceedings of 27th August, 2009 and seeking another opportunity for completing the cross examination of the DW-1. The application be filed on or before 10th January, 2010. Upon such application being made, the trial court to consider the same sympathetically, as the litigants approaching the court ought not to become victims of such friction amongst the constituents of the system."

3. After obtaining this order from the Court, the petitioner moved an application before the Court to reopen his evidence and for waiving of costs of Rs.500/-. When the Court asked the counsel to address arguments on the application so that the application should be considered in terms of the order of the Court, the counsel told the Court that he does not want to produce his witness before the Court and does not want to pursue its case in that court. In view of this statement made by the counsel for petitioner, the court had no option but to dismiss the application made by the petitioner and thus dismissed the same. However, the Court still gave an opportunity to the petitioner to address arguments and fixed the date as 20th February 2010. It seems that the counsel asked the court for transferring the case from his court to some other court, which request was declined.

4. A perusal of the order in question and the previous order only shows that an effort was made to browbeat the court below. No advocate has a right to browbeat the trial court either by leveling false allegations or by shouting in the Court or creating hindrance in the trial of the case. If any party and the advocate has a complaint against the conduct of the Presiding Officer, the only remedy available is to bring the same to the notice of the District Judge or to the notice of this Court. Adopting of tactics of browbeating or highhandedness in the Court is not warranted. It is settled law that the Civil Judge has no power to transfer the case. Neither is he supposed to transfer a case from him because of browbeating and highhandedness.

5. I, therefore, consider that the trial court rightly did not transfer the case and rightly dismissed the application filed by the petitioner for reopening the evidence as the petitioner refused to argue the application and made a statement that he was not prepared to examine the witnesses in the Court. I find no force in this petition. The petition is hereby dismissed with costs of Rs.5,000/-.

February 02, 2010
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SHIV NARAYAN DHINGRA J.